

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CODIE COUSINO, CAITLYN
SMITH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TAMMY COUSINO,

Respondent-Appellant,

and

TRENT KOHNERT,

Respondent-father (Codie Cousino),

and

CALEB SMITH,

Respondent-father (Caitlyn Smith).

UNPUBLISHED

May 9, 2000

No. 222507

Jackson Circuit Court

Family Division

LC No. 98-086366

Before: Owens, P.J., and Murphy and White, JJ.

MEMORANDUM.

Respondent-appellant Tammy Cousino (respondent), appeals as of right from an order of the family court terminating her parental rights to her minor children, Codie Cousino and Caitlyn Smith, under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist), (g) (unable to provide proper care and custody), and (j) (reasonable likelihood children will be harmed if returned to parent); MSA 27.3178(598.19b)(3)(c)(i), (g) and (j). The parental rights of both fathers were also terminated. However, neither is a party to this appeal. We affirm.

We review the family court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm

conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). To be clearly erroneous, a decision must be more than maybe or probably wrong. *Sours, supra* at 633. Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses. MCR 2.613(C); *Miller, supra* at 337.

Only one statutory ground is required to terminate parental rights. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1992). Once a statutory ground for termination is established, the court must terminate parental rights unless it finds that termination is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5), MCR 5.974(E)(2), *In re Hall-Smith*, 222 Mich App 470, 472; 564 NW2d 156 (1997). Once the petitioner has established a ground for termination of parental rights, the respondent has the burden of going forward with evidence to establish that termination is clearly not in the child's best interest. *Id.* at 473.

The family court did not clearly err in terminating respondent-appellant's parental rights to Codie and Caitlyn. The applicable statutory subsections, MCL 712A.19b(3)(c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(c)(i), (g) and (j), provided effective July 1, 1999:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

The family court did not err in terminating respondent's parental rights under statutory subsection (3)(g) because evidence clearly showed that respondent failed to provide proper care and custody for the children and there was no likelihood that she would be able to do so within a reasonable time, considering their needs.

The evidence showed that despite numerous interventions and assistance since 1991, respondent had not made sustained progress in issues of bonding with Codie, housing, employment, and recognition of her role and responsibility in the removal of her children from her home. Both children

had been in foster care for about 1 ½ years. Codie had little bond with respondent, and respondent displayed little interest in actively seeking to strengthen that bond. Although respondent showed some effort and made some progress, she did not comply with many of the terms of her treatment plan, including obtaining housing, improving her budgeting skills, and securing and maintaining employment. The family court did not clearly err in terminating respondent-appellant's parental rights under statutory subsection (3)(g).

Respondent argues that the family court clearly erred in determining that termination of her parental rights was in the children's best interests. However, respondent failed to present evidence to show that termination ran counter to the children's welfare. Respondent bore the burden of going forward with this evidence. *Hall-Smith, supra*, at 473. There was no indication that respondent had seriously attempted to bond with Codie. As of the date of the termination hearing, respondent had not secured housing or employment, and displayed little insight into her children's needs and her own responsibility for their being removed from her home. Both children were thriving in their foster care placement. To allow for further delay in providing them with the permanent planning they needed so that respondent could have more time to pursue her late-chosen path to responsibility would further disrupt their lives. The family court did not clearly err in finding that it was not established that termination of respondent's parental rights was clearly not in the children's best interests.

Because the requisite showing was made with respect to section (3)(c)(g), we need not address sections (3)(c)(i) and 3(j).

Affirmed.

/s/ Donald S. Owens
/s/ William B. Murphy
/s/ Helene N. White